

REMARKS

Claims 1-25 constitute the pending claims in the present application. Applicants cancel, without prejudice, previously withdrawn claims 1-19 and 22. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

1. Applicants note that the amendments put forth in the previous response have been entered in full.

2. Claims 20 and 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Applicants traverse this rejection and contend that the rejection is moot in light of the amended claims.

Applicants have amended claim 20 to more particularly point out that the *patched* protein encoded by the nucleic acid is the patched protein expressed in the membrane of the cell.

Applicants' amendments are believed to obviate any ambiguity with respect to the metes and bounds of the claimed subject matter. Additionally, Applicants' amendments are believed to resolve any objection with respect to proper antecedent basis for recitation of "the *patched* protein." In light of Applicants' amendments, reconsideration and withdrawal of the rejection is requested.

3. Claims 20 and 23-25 are rejected under 35 U.S.C. 102(e) as allegedly anticipated by Ingham et al. Applicants traverse this rejection and contend that the rejection is moot in light of the amended claims.

The basis of this rejection appears to be that previously pending claim 20 was ambiguous, and thus read on other assays that did not require expression of a patched nucleic acid via an exogenously supplied expression construct resulting in the presence of patched protein in the membrane of a cell. The reference cited by the Examiner is an example of such a reference that taught assay methods that did not require expression of a patched nucleic acid via an exogenously supplied expression construct resulting in presence of patched protein in the membrane of a cell. However, as outlined in detail above, Applicants have amended claim 20 to

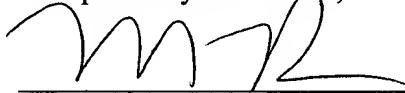
more particularly point out this fact. Accordingly, Applicants' amendments to the claims both resolve any ambiguity and obviate the rejection under 35 U.S.C. 102(e). Reconsideration and withdrawal of this rejection are respectfully requested.

4. The previously pending claims contained subjected matter that was previously subject to a restriction requirement. Specifically, the claims recited sequence identifiers corresponding to both human and mouse patched. Applicants have amended the claims to exclude explicit reference to the murine patched sequence, in compliance with the restriction requirement. Applicants reserve the right to prosecute claims of similar or differing scope in a future application.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945, under Order no. CIBT-P10-203.**

Respectfully Submitted,



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Date: November 9, 2004

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